

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS:  
MCALLEN DIVISION**

LIDIA MARICRUZ SAUCEDO  
RODRIGUEZ

V.

MERCED ARELLANO AVALOS and  
VALLEY BULLS ENERGY, LLC

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CIVIL ACTION NO. \_\_\_\_\_

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**DEFENDANT'S, VALLEY BULLS ENERGY, LLC, NOTICE OF REMOVAL**

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**TO: THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS,  
MCALLEN DIVISION:**

Defendant, **VALLEY BULLS ENERGY, LLC** files this notice of removal pursuant  
to 28 U.S.C. § 1446(a).

**I. INTRODUCTION**

1.1 Plaintiff is LIDIA MARICRUZ SAUCEDO RODRIGUEZ (hereinafter  
"Plaintiff"), a United States citizen and resident of Hidalgo County, Texas.

1.2 Defendant MERCED ARELLANO AVALOS (hereinafter "Defendant  
AVALOS") is a citizen and resident of Mexico.

1.3 Defendant VALLEY BULLS ENERGY, LLC is a Texas LLC that was  
fraudulently joined to prevent removal based on diversity jurisdiction.

1.4 Plaintiff filed his suit on November 27, 2017 and citation was issued to  
Defendant VALLEY BULLS ENERGY, LLC on November 28, 2017. Defendant VALLEY  
BULLS ENERGY, LLC was served on December 6, 2017.

1.5 Defendant VALLEY BULLS ENERGY, LLC is a Texas LLC. It operates trucks that are permitted to operate within the U.S. It does not, nor has it ever, employed Defendant AVALOS. Defendant AVALOS has never driven any trucks for Defendant VALLEY BULLS ENERGY, LLC. Accordingly, Defendant VALLEY BULLS ENERGY, LLC has no connection with nor relation to the alleged incident made the basis of Plaintiff's suit, the Plaintiff, or to Defendant AVALOS. Plaintiff cannot prove now or in the future that Defendant VALLEY BULLS ENERGY, LLC was involved in the alleged incident made the basis of this suit. Accordingly, Defendant VALLEY BULLS ENERGY, LLC is an improper party to this lawsuit and was fraudulently joined solely to prevent removal based on diversity jurisdiction.

1.6 Defendant files this notice of removal within a reasonable time of learning of the fraudulent joinder. See *Beasley v. Goodyear Tire & Rubber Co.*, 835 F.Supp 269 272-3 (D.S.C. 1993).

## **II. BASIS FOR REMOVAL**

2.1 Removal is proper in this case because there is complete diversity between the parties. 28 U.S.C. § 1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a resident of Texas. Defendant AVALOS is a citizen of Mexico, and Defendant VALLEY BULLS ENERGY, LLC was fraudulently joined in this suit solely to defeat diversity jurisdiction. Additionally, the amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. § 1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006). Specifically, Plaintiff's Original Petition claims damages for past and future medical expenses, past and future physical pain and mental anguish, and past and

future physical impairment and disfigurement, for which Plaintiff seeks monetary relief over \$200,000.00 but not more than \$1 million.

2.2 Removal is also proper in this case because Plaintiff joined Defendant VALLEY BULLS ENERGY, LLC, a nondiverse Defendant, solely to defeat diversity jurisdiction. See *Salazar v. Allstate Tex. Lloyd's, Inc.*, 455 F.3d 571, 574 (5th Cir. 2006). Defendant VALLEY BULLS ENERGY, LLC can be disregarded under the fraudulent-joinder doctrine if there is no possibility the Plaintiff can establish a cause of action against Defendant VALLEY BULLS ENERGY, LLC under applicable state law. *Schur v. L.A. Weight Loss Ctrs., Inc.*, 577 F.3d 752, 764 (7th Cir. 2009); see e.g., *Cuevas v. BAC Home Loans Servicing, LP*, 648 F.3d 242, 249-50 (5th Cir. 2011). There is no reasonable basis for believing that Plaintiff could recover from Defendant VALLEY BULLS ENERGY, LLC as Defendant VALLEY BULLS ENERGY, LLC has no connection to the alleged facts and alleged incident made the basis of this suit. Specifically, Defendant VALLEY BULLS ENERGY, LLC did not own the tractor-trailer involved in this suit, did not then nor ever employ Defendant AVALOS, and had no involvement in the alleged accident made the basis of this suit.

2.3 Defendant AVALOS consents to the removal. Consent of Defendant VALLEY BULLS ENERGY, LLC is not necessary because Defendant VALLEY BULLS ENERGY, LLC has been fraudulently joined. *Chambers v. HSBC Bank USA*, 796 F.3d 560, 564 (6th Cir. 2015).

2.4 Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. § 1446(a). Pursuant to Local Rule LR81 of the United States District Court for the Southern District of Texas,

Defendant provides a copy of the docket sheet, if any, executed process, if any, pleadings, and any signed orders served in the State Court action, together with an index of matters being filed, and the notice served upon Plaintiff's attorney of record that this matter was removed. These documents are attached as "**EXHIBIT 1**". Also pursuant to LR81, an Index of Attorneys/Parties is attached as "**EXHIBIT 2**."

2.5 Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

2.6 Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

### **III. JURY DEMAND**

3.1 Plaintiff did demand a jury in the state-court suit.

### **IV. CONCLUSION AND PRAYER**

4.1 In accordance with the above, Defendant prays that this Court enter such further Orders and grant such further relief as may be necessary to secure removal herein and to prevent further proceedings in the 206th Judicial District Court of Hidalgo County, Texas, and for such other and further relief, general and special, legal and equitable, to which it may show itself to be justly entitled.

Respectfully submitted,

**ROYSTON, RAYZOR, VICKERY & WILLIAMS, LLP**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that a true and correct copy of the above and foregoing document was filed electronically and forwarded *via the CM/ECF Filing System, facsimile, Regular U.S. Mail, certified mail, return receipt requested and/or E-Mail* to all known counsel of record on this 26<sup>th</sup> day of January 2018, as follows:

Richard Jason Nava  
Stern Law Group  
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Bellaire, Texas 77401

/s/ James H. Hunter, Jr.

Of Royston, Rayzor, Vickery & Williams, L.L.P.